

Assembly Bill No. 3028

CHAPTER 1008

An act to amend Sections 228, 527.6, 527.8, 638, 1281.95, and 1987 of the Code of Civil Procedure, to amend Sections 307, 5211, 7211, and 9211 of the Corporations Code, to amend Sections 2106 and 3111 of the Family Code, to amend Sections 7.6, 68085, and 68203.1 of, to add Sections 20902.5, 68087.1, and 69645 to, and to repeal Sections 69510, 69510.5, and 69510.6 of, the Government Code, to amend Section 1328 of the Penal Code, to amend Sections 1513.1, 1851, and 1851.5 of the Probate Code, and to amend Section 213.5 of the Welfare and Institutions Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 27, 2002. Filed
with Secretary of State September 27, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3028, Committee on Judiciary. Court procedures.

(1) Existing law authorizes a person who has suffered harassment, as defined, to seek a temporary restraining order and an injunction prohibiting the harassment. Existing law authorizes the court, on a showing of good cause, to issue a temporary restraining order which protects other named family or household members who reside with the person.

This bill also would authorize the court to issue an injunction which protects other named family or household members who reside with the person who is being subject to harassment under those circumstances.

(2) Under existing law, any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee prohibiting further unlawful violence or threats of violence by that individual. Existing law authorizes the court, on a showing of good cause, to issue a temporary restraining order which protects other named family or household members who reside with the person.

This bill also would authorize the court to issue an injunction which protects other named family or household members who reside with the person who is being subject to that violence under those circumstances.

(3) Existing law authorizes referees to hear trials in specified instances. Existing law requires the Judicial Council to collect

information and report to the Legislature by January 1, 2003, regarding fees paid by the parties for the use of referees.

This bill would extend the reporting requirement to July 1, 2003.

(4) Existing law provides for the service of a responsible party if service of a subpoena is to be made on a minor.

This bill would also require service of the subpoena to be made upon the designated agent for service at the county child welfare department or probation department if the minor meets specified criteria.

(5) Under existing law, in effect until January 1, 2003, the members of the board of directors of a for-profit corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, and nonprofit religious corporation may participate in a meeting through use of electronic video screen communication or similar communications equipment, as long as certain conditions are met such as all members participating in the meeting are able to communicate with all other members concurrently, and participation in a meeting under these circumstances constitutes presence in person at that meeting.

This bill would extend the operation of these provisions to January 1, 2004.

(6) Existing law requires a report of a child custody evaluator to be filed with the clerk of the court in which a contested custody or visitation rights hearing will be conducted and served on the parties and their attorneys at least 10 days before the hearing.

This bill also would require that report to be served on any counsel appointed, as specified, for the child.

(7) Existing law establishes the Trial Court Trust Fund, and provides for the apportionment of the moneys in these funds.

This bill would authorize the Judicial Council to direct payment or reimbursement, or both of actual costs from the Trial Court Trust Fund for trial court programs, contract costs, and other services to one or more participating courts upon appropriation of funding for these purposes in the annual Budget Act, as specified. The bill would also require the Judicial Council to file specified reports and establish certain procedures in this regard.

(8) Existing law provides for the retirement of judicial employees, as specified.

This bill would provide that if the Chief Justice of the California Supreme Court, by formal action, determines that because of an impending curtailment of, or change in the manner of performing, judicial branch services, the best interests of the state would be served by encouraging the retirement of judicial branch state employees from the Administrative Office of the Courts, the Supreme Court, the Courts of Appeal, or the Habeas Corpus Resource Center and the sufficient



economies could be realized to offset any costs to the judicial branch resulting from this action, an additional two years of service shall be credited to the affected members if specified conditions exist.

(9) Existing law establishes a salary increase for presiding judges of superior courts with 4 or more judges. Under the Constitution, laws that set the salaries of elected state offices constitute appropriations.

This bill would make an appropriation by establishing a 2% salary increase, operative January 2, 2003, for presiding judges of superior courts with 2 or 3 judges.

(10) Existing law provides that any officer whose office is created by the California Constitution and who is made a member of a state board, commission, or committee, or of the governing body of any state agency or authority may designate a deputy of his or her office holding a specified position to act as the member in the constitutional officer's place and stead, to all intents and purposes as though the constitutional officer were personally present. Existing law expressly provides the circumstances under which the Lieutenant Governor, Attorney General, and Superintendent of Public Instruction may designate a deputy of his or her office for that purpose.

This bill would expressly provide that the Chief Justice of the California Supreme Court may designate a judge or employee of a state court or an employee of the Administrative Office of the Courts to act as a deputy for those purposes.

(11) Under existing law, a majority of the judges of a superior court may order sessions of the court to be held at any place where a municipal court holds sessions within the county or, in a county in which there is no municipal court, where there is a court facility.

This bill instead would require each trial court to determine the number and location of sessions of the court, taking into consideration the employees and facilities of the court. The bill would authorize the session to be held outside the county of the court under certain circumstances.

(12) Existing law requires a county to assess the parent, parents, or other person charged with the support and maintenance of a proposed ward of the juvenile court, and the guardian, proposed guardian, or the estate of the proposed ward, for county expenses for any investigation or review conducted by the court investigator, probation officer, or domestic relations investigator.

This bill would require a court or a county to make that assessment with respect to the ward or proposed ward, and specify that the court may order reimbursement to the court or to the county in the amount of the assessment, unless the court finds that all or any part of the assessment would impose a hardship on the ward or the ward's estate.



(13) Existing law requires each county to assess each conservatee in the county for any investigation or review conducted by a court investigator at county expense with respect to that person, but specifies that the court may order reimbursement to the county for the cost of the investigations, unless the court finds that all or any part of the assessment would impose a hardship on the estate.

This bill would transfer this duty to the court and would make related changes.

(14) Existing law requires that any amount otherwise owing to a county pursuant to Article XIII B of the California Constitution and related statutory provisions for costs incurred by the county for the costs of investigation or review by court investigators be reduced by the amount of any assessments actually collected during the fiscal year.

This bill would delete this provision.

(15) By requiring new duties of the courts, the bill would impose a state-mandated local program.

(16) Existing law provides that after a petition has been filed to declare a child a dependent child of the juvenile court, and after a petition has been filed to declare a child a ward of the juvenile court, the court may issue ex parte orders enjoining any person from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child, among other things.

Existing law provides that if a temporary restraining order is granted without notice, the matter is required to be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. Existing law authorizes the court, on the motion of the person seeking the restraining order, or on its own motion, to shorten the time for service on the person to be restrained of the order to show cause.

This bill would permit the court, upon its own motion or the filing of an affidavit by the person seeking the restraining order, to find that the person to be restrained could not be served within the time required by law and to reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained.

(17) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 228 of the Code of Civil Procedure is amended to read:

228. Challenges for general disqualification may be taken on one or both of the following grounds, and for no other:

(a) A want of any of the qualifications prescribed by this code to render a person competent as a juror.

(b) The existence of any incapacity which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the challenging party.

SEC. 2. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, “harassment” is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff.

As used in this subdivision:

(1) “Unlawful violence” is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(2) “Credible threat of violence” is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) “Course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making



harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, fax, or computer e-mail. Constitutionally protected activity is not included within the meaning of “course of conduct.”

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with Section 527, except to the extent this section provides a rule that is inconsistent. A temporary restraining order may be issued with or without notice upon an affidavit that, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. In the discretion of the court, and on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members who reside with the plaintiff. A temporary restraining order issued under this section shall remain in effect, at the court’s discretion, for a period not to exceed 15 days, or, if the court extends the time for hearing under subdivision (d), not to exceed 22 days, unless otherwise modified or terminated by the court.

(d) Within 15 days, or, if good cause appears to the court, 22 days from the date the temporary restraining order is issued, a hearing shall be held on the petition for the injunction. The defendant may file a response that explains, excuses, justifies, or denies the alleged harassment or may file a cross-complaint under this section. At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) This section does not preclude either party from representation by private counsel or from appearing on the party’s own behalf.

(f) In a proceeding under this section where there are allegations or threats of domestic violence, a support person may accompany a party in court and, where the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party’s attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of domestic violence. The support person is not present as a legal adviser and shall not give legal advice. The support person shall assist the person who alleges he or she is a victim of domestic violence in feeling more



confident that he or she will not be injured or threatened by the other party during the proceedings where the person who alleges he or she is a victim of domestic violence and the other party must be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(g) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may for good cause, on motion of the plaintiff or on its own motion, shorten the time for service on the defendant.

(h) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

An order issued under this section shall, on request of the plaintiff, be served on the defendant, whether or not the defendant has been taken into custody, by any law enforcement officer who is present at the scene of reported harassment involving the parties to the proceeding. The plaintiff shall provide the officer with an endorsed copy of the order and a proof of service that the officer shall complete and send to the issuing court.

Upon receiving information at the scene of an incident of harassment that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the defendant of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 and subdivision (g) of Section 12021 of the Penal Code.

(i) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.



(j) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(k) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of the Civil Code or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a plaintiff's right to use other existing civil remedies.

(l) The Judicial Council shall promulgate forms and instructions therefor, and rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(m) A temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(n) Information on any temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(o) There shall be no filing fee for a petition that alleges that a person has inflicted or threatened violence against the petitioner, or stalked the petitioner, or acted or spoke in any other manner that has placed the petitioner in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for filing a response to a petition alleging these acts.

SEC. 3. Section 527.8 of the Code of Civil Procedure is amended to read:

527.8. (a) Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee prohibiting further unlawful violence or threats of violence by that individual.

(b) For the purposes of this section:



(1) “Unlawful violence” is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(2) “Credible threat of violence” is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) “Course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

(c) This section does not permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are constitutionally protected, or otherwise protected by Section 527.3 or any other provision of law.

(d) For purposes of this section, the terms “employer” and “employee” mean persons defined in Section 350 of the Labor Code. “Employer” also includes a federal agency, the state, a state agency, a city, county, or district, and a private, public, or quasi-public corporation, or any public agency thereof or therein. “Employee” also includes the members of boards of directors of private, public, and quasi-public corporations and elected and appointed public officers. For purposes of this section only, “employee” also includes a volunteer or independent contractor who performs services for the employer at the employer’s worksite.

(e) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the plaintiff also files an affidavit that, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the defendant, and that great or irreparable harm would result to an employee. In the discretion of the court, and on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members who reside with the employee.

A temporary restraining order granted under this section shall remain in effect, at the court’s discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.



(f) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response that explains, excuses, justifies, or denies the alleged unlawful violence or credible threats of violence or may file a cross-complaint under this section. At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. Moreover, if the defendant is a current employee of the entity requesting the injunction, the judge shall receive evidence concerning the employer's decision to retain, terminate, or otherwise discipline the defendant. If the judge finds by clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence, an injunction shall issue prohibiting further unlawful violence or threats of violence. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(g) This section does not preclude either party from representation by private counsel or from appearing on his or her own behalf.

(h) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may, for good cause, on motion of the plaintiff or on its own motion, shorten the time for service on the defendant.

(i) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

(j) Any intentional disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(k) Nothing in this section may be construed as expanding, diminishing, altering, or modifying the duty, if any, of an employer to provide a safe workplace for employees and other persons.

(l) The Judicial Council shall develop forms, instructions, and rules for scheduling of hearings and other procedures established pursuant to this section. The forms for the petition and response shall be simple and



concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(m) A temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(n) Information on any temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

(o) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against an employee of the petitioner, or stalked the employee, or acted or spoke in any other manner that has placed the employee in reasonable fear of violence, and that seeks protective or restraining orders or injunctions restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for filing a response to a petition alleging these acts.

SEC. 4. Section 638 of the Code of Civil Procedure is amended to read:

638. A referee may be appointed upon the agreement of the parties filed with the clerk, or judge, or entered in the minutes, or upon the motion of a party to a written contract or lease that provides that any controversy arising therefrom shall be heard by a referee if the court finds a reference agreement exists between the parties:

(a) To hear and determine any or all of the issues in an action or proceeding, whether of fact or of law, and to report a statement of decision.

(b) To ascertain a fact necessary to enable the court to determine an action or proceeding.

(c) In any matter in which a referee is appointed pursuant to this section, a copy of the order shall be forwarded to the office of the presiding judge. The Judicial Council shall, by rule, collect information on the use of these referees. The Judicial Council shall also collect information on fees paid by the parties for the use of referees to the extent that information regarding those fees is reported to the court. The Judicial Council shall report thereon to the Legislature by July 1, 2003. This subdivision shall become inoperative on January 1, 2004.



SEC. 5. Section 1281.95 of the Code of Civil Procedure is amended to read:

1281.95. (a) In a binding arbitration of any claim for more than three thousand dollars (\$3,000) pursuant to a contract for the construction or improvement of residential property consisting of one to four units, the arbitrator shall, within 10 days following his or her appointment, provide to each party a written declaration under penalty of perjury. This declaration shall disclose (1) whether the arbitrator or his or her employer or arbitration service had or has a personal or professional affiliation with either party, and (2) whether the arbitrator or his or her employer or arbitration service has been selected or designated as an arbitrator by either party in another transaction.

(b) If the arbitrator discloses an affiliation with either party, discloses that the arbitrator has been selected or designated as an arbitrator by either party in another arbitration, or fails to comply with this section, he or she may be disqualified from the arbitration by either party.

(c) A notice of disqualification shall be served within 15 days after the arbitrator makes the required disclosures or fails to comply. The right of a party to disqualify an arbitrator shall be waived if the party fails to serve the notice of disqualification pursuant to this subdivision unless the arbitration makes a material omission or material misrepresentation in his or her disclosure. Nothing in this section shall limit the right of a party to vacate an award pursuant to Section 1286.2, or to disqualify an arbitrator pursuant to any other law or statute.

SEC. 6. Section 1987 of the Code of Civil Procedure is amended to read:

1987. (a) Except as provided in Sections 68097.1 to 68097.8, inclusive, of the Government Code, the service of a subpoena is made by delivering a copy, or a ticket containing its substance, to the witness personally, giving or offering to the witness at the same time, if demanded by him or her, the fees to which he or she is entitled for travel to and from the place designated, and one day's attendance there. The service shall be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. The service may be made by any person. If service is to be made on a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of those persons cannot be located with reasonable diligence, service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, and on the minor if the minor is 12 years of age or older. If the minor is alleged to come within the description of Section 300, 601, or 602 of the Welfare and Institutions Code and the minor is not in the custody of a parent or guardian, regardless of the age of the minor,



service also shall be made upon the designated agent for service of process at the county child welfare department or the probation department under whose jurisdiction the minor has been placed.

(b) In the case of the production of a party to the record of any civil action or proceeding or of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena upon any such witness is not required if written notice requesting the witness to attend before a court, or at a trial of an issue therein, with the time and place thereof, is served upon the attorney of that party or person. The notice shall be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. If entitled thereto, the witness, upon demand, shall be paid witness fees and mileage before being required to testify. The giving of the notice shall have the same effect as service of a subpoena on the witness, and the parties shall have those rights and the court may make those orders, including the imposition of sanctions, as in the case of a subpoena for attendance before the court.

(c) If the notice specified in subdivision (b) is served at least 20 days before the time required for attendance, or within any shorter period of time as the court may order, it may include a request that the party or person bring with him or her books, documents or other things. The notice shall state the exact materials or things desired and that the party or person has them in his or her possession or under his or her control. Within five days thereafter, or any other time period as the court may allow, the party or person of whom the request is made may serve written objections to the request or any part thereof, with a statement of grounds. Thereafter, upon noticed motion of the requesting party, accompanied by a showing of good cause and of materiality of the items to the issues, the court may order production of items to which objection was made, unless the objecting party or person establishes good cause for nonproduction or production under limitations or conditions. The procedure of this subdivision is alternative to the procedure provided by Sections 1985 and 1987.5 in the cases herein provided for, and no subpoena duces tecum shall be required.

Subject to this subdivision, the notice provided in this subdivision shall have the same effect as is provided in subdivision (b) as to a notice for attendance of that party or person.

SEC. 7. Section 307 of the Corporations Code, as amended by Section 1 of Chapter 136 of the Statutes of 1997, is amended to read:

307. (a) Unless otherwise provided in the articles or, subject to paragraph (5) of subdivision (a) of Section 204, in the bylaws, all of the following apply:



(1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communication, or other communications equipment. Participation in a meeting through use of conference telephone pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through the use of electronic video screen communication or other communications equipment, other than conference telephone, pursuant to this subdivision constitutes presence in person at that meeting if all of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose,



or to interpose an objection to, a specific action to be taken by the corporation.

(C) The corporation adopts and implements some means of verifying both of the following:

(i) A person participating in the meeting is a director or other person entitled to participate in the board meeting.

(ii) All actions of, or votes by, the board are taken or cast only by the directors and not by persons who are not directors.

(7) A majority of the authorized number of directors constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-third the authorized number of directors or less than two, whichever is larger, unless the authorized number of directors is one, in which case one director constitutes a quorum.

(8) An act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board, subject to the provisions of Section 310 and subdivision (e) of Section 317. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors.

(c) This section applies also to committees of the board and incorporators and action by those committees and incorporators, *mutatis mutandis*.

(d) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 8. Section 307 of the Corporations Code, as amended by Section 2 of Chapter 136 of the Statutes of 1997, is amended to read:

307. (a) Unless otherwise provided in the articles or, subject to paragraph (5) of subdivision (a) of Section 204 in the bylaws:

(1) Meetings of the board may be called by the chairperson of the board or the president or any vice president or the secretary or any two directors.



(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, as long as all members participating in the meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at the meeting.

(7) A majority of the authorized number of directors constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-third the authorized number of directors or less than two, whichever is larger, unless the authorized number of directors is one, in which case one director constitutes a quorum.

(8) Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board, subject to the provisions of Section 310 and subdivision (e) of Section 317. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact



business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for the meeting.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors.

(c) The provisions of this section apply also to committees of the board and incorporators and action by such committees and incorporators, *mutatis mutandis*.

(d) This section shall become operative on January 1, 2004.

SEC. 9. Section 5211 of the Corporations Code, as amended by Section 5 of Chapter 136 of the Statutes of 1997, is amended to read:

5211. (a) Unless otherwise provided in the articles or in the bylaws, all of the following apply:

(1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated



in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communication, or other communications equipment. Participation in a meeting through use of conference telephone pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through use of electronic video screen communication or other communications equipment, other than conference telephone, pursuant to this subdivision constitutes presence in person at that meeting if all of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(C) The corporation adopts and implements some means of verifying both of the following:

(i) A person participating in the meeting is a director or other person entitled to participate in the board meeting.

(ii) All actions of, or votes by, the board are taken or cast only by the directors and not by persons who are not directors.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 5212, 5233, 5234, 5235, and subdivision (e) of Section 5238, an act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number required by this division, the articles or bylaws.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually



or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as the unanimous vote of the directors. For the purposes of this section only, “all members of the board” does not include an “interested director” as defined in Section 5233.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by those incorporators or committees *mutatis mutandis*.

(d) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 10. Section 5211 of the Corporations Code, as amended by Section 6 of Chapter 136 of the Statutes of 1997, is amended to read:

5211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairperson of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days’ notice by first-class mail or 48 hours’ notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not



stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, as long as all members participating in the meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at the meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 5212, 5233, 5234, 5235, and subdivision (e) of Section 5238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for the meeting, or any greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as the unanimous vote of the directors. For the purposes of this section only, “all members of the board” does not include any “interested director” as defined in Section 5233.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by those incorporators or committees *mutatis mutandis*.

(d) This section shall become operative on January 1, 2004.

SEC. 11. Section 7211 of the Corporations Code, as amended by Section 7 of Chapter 136 of the Statutes of 1997, is amended to read:

7211. (a) Unless otherwise provided in the articles or in the bylaws, all of the following apply:

(1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.



(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communications, or other communications equipment. Participation in a meeting through use of conference telephone pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through use of electronic video screen communication or other communications equipment, other than conference telephone, pursuant to this subdivision constitutes presence in person at that meeting if all of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.



(C) The corporation adopts and implements some means of verifying both of the following:

(i) A person participating in the meeting is a director or other person entitled to participate in the board meeting.

(ii) All actions of, or votes by, the board are taken or cast only by the directors and not by persons who are not directors.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 7212, 7233, 7234, and subdivision (e) of Section 7237 and Section 5233, insofar as it is made applicable pursuant to Section 7238, an act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number required by this division, the articles or bylaws.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors. For the purposes of this section only, “all members of the board” does not include an “interested director” as defined in Section 5233, insofar as it is made applicable pursuant to Section 7238.

(c) This section applies also to incorporators, to committees of the board, and to action by those incorporators or committees *mutatis mutandis*.

(d) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 12. Section 7211 of the Corporations Code, as amended by Section 8 of Chapter 136 of the Statutes of 1997, is amended to read:

7211. (a) Unless otherwise provided in the articles or in the bylaws:



(1) Meetings of the board may be called by the chairperson of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, as long as all members participating in the meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at the meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.



(8) Subject to the provisions of Sections 7212, 7233, 7234, and subdivision (e) of Section 7237 and Section 5233, insofar as it is made applicable pursuant to Section 7238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for the meeting, or any greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors. For the purposes of this section only, “all members of the board” does not include any “interested director” as defined in Section 5233, insofar as it is made applicable pursuant to Section 7238.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees *mutatis mutandis*.

(d) This section shall become operative on January 1, 2004.

SEC. 13. Section 9211 of the Corporations Code, as amended by Section 9 of Chapter 136 of the Statutes of 1997, is amended to read:

9211. (a) Unless otherwise provided in the articles or in the bylaws, all of the following apply:

(1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days’ notice by first-class mail or 48 hours’ notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or



who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communication, or other communications equipment. Participation in a meeting through use of conference telephone pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through use of electronic video screen communication or other communications equipment, other than conference telephone, pursuant to this subdivision constitutes presence in person at that meeting, if all of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(C) The corporation adopts and implements some means of verifying both of the following:

(i) A person participating in the meeting is a director or other person entitled to participate in the board meeting.

(ii) All actions of or votes by the board are taken or cast only by the directors and not by persons who are not directors.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business.

(8) An act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number as is required by this division, the articles or bylaws.



(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as the unanimous vote of the directors.

(c) This section applies also to incorporators, to committees of the board, and to action by those incorporators or committees *mutatis mutandis*.

(d) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 14. Section 9211 of the Corporations Code, as amended by Section 10 of Chapter 136 of the Statutes of 1997, is amended to read:

9211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairperson of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, as long



as all members participating in the meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at the meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business.

(8) Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for the meeting, or any greater number as is required by this division, the articles, or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as the unanimous vote of the directors.

(c) This section applies also to incorporators, to committees of the board, and to action by the incorporators or the committees *mutatis mutandis*.

(d) This section shall become operative on January 1, 2004.

SEC. 15. Section 2106 of the Family Code is amended to read:

2106. Except as provided in subdivision (d) of Section 2105 or in Section 2110, absent good cause, no judgment shall be entered with respect to the parties' property rights without each party, or the attorney for that party in this matter, having executed and served a copy of the final declaration of disclosure and current income and expense declaration. Each party, or his or her attorney, shall execute and file with the court a declaration signed under penalty of perjury stating that service of the final declaration of disclosure and current income and expense declaration was made on the other party or that service of the final declaration of disclosure has been waived pursuant to subdivision (d) of Section 2105 or in Section 2110.

SEC. 16. Section 3111 of the Family Code is amended to read:

3111. (a) In any contested proceeding involving child custody or visitation rights, the court may appoint a child custody evaluator to conduct a child custody evaluation in cases where the court determines it is in the best interests of the child. The child custody evaluation shall be conducted in accordance with the standards adopted by the Judicial Council pursuant to Section 3117, and all other standards adopted by the



Judicial Council regarding child custody evaluations. If directed by the court, the court-appointed child custody evaluator shall file a written confidential report on his or her evaluation. At least 10 days before any hearing regarding custody of the child, the report shall be filed with the clerk of the court in which the custody hearing will be conducted and served on the parties or their attorneys, and any other counsel appointed for the child pursuant to Section 3150. The report may be considered by the court.

(b) The report shall not be made available other than as provided in subdivision (a).

(c) The report may be received in evidence on stipulation of all interested parties and is competent evidence as to all matters contained in the report.

SEC. 17. Section 7.6 of the Government Code is amended to read:

7.6. (a) If by law, any officer whose office is created by the California Constitution is made a member of a state board, commission, or committee, or of the governing body of any state agency or authority, the officer may designate a deputy of his or her office holding a position specified in subdivision (c) of Section 4 of Article VII of the California Constitution to act as the member in the constitutional officer's place and stead, to all intents and purposes as though the constitutional officer was personally present, including the right of the deputy to be counted in constituting a quorum, to participate in the proceedings of the board, commission, committee, or other governing body, and to vote upon any and all matters. The constitutional officer so designating a deputy shall be responsible for the acts of the deputy acting under the designation in the same manner and to the same extent that the constitutional officer is responsible for the acts of the deputy performing his or her official duties as a deputy of the office of the constitutional officer.

(b) The Lieutenant Governor may designate any person in his or her office holding a position specified in subdivision (c) or (f) of Section 4 of Article VII of the California Constitution to act as a deputy for the purposes of this section only. However, the Lieutenant Governor may not appoint a person to act as a deputy for him or her at meetings of the Senate, or of the Regents of the University of California, or of the Trustees of the California State University.

(c) The Chief Justice of the California Supreme Court may designate a judge or employee of a state court or an employee of the Administrative Office of the Courts to act as a deputy for the purposes of this section.

(d) The Attorney General may also designate any person in his or her office holding a position specified in subdivision (m) of Section 4 of Article VII of the California Constitution to act as a deputy for the purpose of this section. However, no person designated by the Attorney



General pursuant to this section to act as a member on any state board, commission, committee, or governing body of which the Attorney General is presiding officer shall act as presiding officer in his or her place.

(e) The Superintendent of Public Instruction may designate any person in his or her office holding a position specified in Section 2.1 of Article IX of the California Constitution to act as a deputy for the purposes of this section. However, the Superintendent of Public Instruction may not appoint a person to act as a deputy for him or her at meetings of the State Board of Education, of the Regents of the University of California, or of the Trustees of the California State University.

(f) Notwithstanding subdivisions (a) to (e), inclusive, not more than one officer subject to this section shall be represented by a deputy subject to this section at any meeting or session of the State Lands Commission.

SEC. 18. Section 20902.5 is added to the Government Code, to read:

20902.5. (a) Notwithstanding any other provision of this part, whenever the Chief Justice, by formal action, determines that because of an impending curtailment of, or change in the manner of performing, judicial branch services, the best interests of the state would be served by encouraging the retirement of judicial branch state employees from the Administrative Office of the Courts, the Supreme Court, the Courts of Appeal, or the Habeas Corpus Resource Center and that sufficient economies could be realized to offset any costs to the judicial branch resulting from this action, an additional two years of service shall be credited to the affected members, if both of the following conditions exists:

(1) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the operative date of the formal action of the Chief Justice that shall specify the period.

(2) The Administrative Office of the Courts transmits to the retirement fund an amount determined by the board that is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without that service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board with respect to all eligible members who retire during the specified period.

(b) As used in this section, “member” means a state employee who is employed in an organizational unit of the judicial branch designated by the Chief Justice in the formal action crediting the additional service credit.



(c) The amount of service credit shall be two years regardless of credited service. Any member who qualifies under this section shall, upon subsequent reentry to this system, forfeit the service credit acquired under this section.

(d) This section is not applicable to any member otherwise eligible, if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the operative date of the formal action of the Chief Justice or if the member is not eligible to retire without the additional credit available under this section.

SEC. 19. Section 68085 of the Government Code is amended to read:

68085. (a) (1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned at least quarterly for the purpose of funding trial court operations, as defined in Section 77003. Apportionment payments may not exceed 30 percent of the total annual apportionment to the Trial Court Trust Fund for state trial court funding in any 90-day period.

(2) The apportionment payments shall be made by the Controller. The final payment from the Trial Court Trust Fund for each fiscal year shall be made on or before August 31 of the subsequent fiscal year.

(3) If apportionment payments are made on a quarterly basis, the payments shall be on July 15, October 15, January 15, and April 15. In addition to quarterly payments, a final payment from the Trial Court Trust Fund for each fiscal year may be made on or before August 31 of the subsequent fiscal year.

(4) Notwithstanding any other provision of law, in order to promote statewide efficiency, the Judicial Council may authorize the direct payment or reimbursement or both of actual costs from the Trial Court Trust Fund for trial court programs, contract costs, or legal and financial services to one or more participating courts upon appropriation of funding for these purposes in the annual Budget Act. Upon prior written approval of the Director of Finance, the Judicial Council may also authorize an increase in any reimbursements or direct payments in excess of the amount appropriated in the annual Budget Act. For any increases in reimbursements or direct payments within the fiscal year that exceed two hundred thousand dollars (\$200,000), the Director of Finance shall provide notification in writing of any approval granted under this section, not less than 30 days prior to the effective date of that approval, to the chairperson of the committee in each house of the Legislature that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house of the Legislature that consider the annual Budget Act, and the Chairperson of



the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance, determine. The direct payment or reimbursement of costs may be supported by the reduction of a participating court's allocation from the Trial Court Trust Fund to the extent that the court's expenditures for the program are reduced and the court is supported by the program. The Judicial Council shall provide the affected trial courts with quarterly reports on expenditures incurred as authorized by this subdivision. The Judicial Council shall establish procedures to provide for the administration of this paragraph in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts.

(b) Notwithstanding any other provision of law, the fees listed in subdivision (c) shall all be deposited upon collection in a special account in the county treasury, and transmitted monthly to the Controller for deposit in the Trial Court Trust Fund.

(c) (1) Except as specified in subdivision (d), this section applies to all fees collected pursuant to Sections 631.3, 116.230, and 403.060 of the Code of Civil Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827, 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1, 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862, 27081.5, 68086, 72055, 72056, 72056.01, and 72060.

(2) If any of the fees provided for in this subdivision are partially waived by court order, and the fee is to be divided between the Trial Court Trust Fund and any other fund, the amount of the partial waiver shall be deducted from the amount to be distributed to each fund in the same proportion as the amount of each distribution bears to the total amount of the fee.

(3) Any amounts transmitted by a county to the Controller for deposit into the Trial Court Trust Fund from fees collected pursuant to Section 27361 between January 1, 1998, and the effective date of this paragraph shall be credited against the total amount the county is required to pay to the state pursuant to paragraph (2) of subdivision (b) of Section 77201 for the 1997–98 fiscal year.

(d) This section does not apply to that portion of a filing fee collected pursuant to Section 26820.4, 26826, 26827, 72055, or 72056 which is allocated for dispute resolution pursuant to Section 470.3 of the Business and Professions Code, the county law library pursuant to Section 6320 of the Business and Professions Code, the Judges' Retirement Fund pursuant to Section 26822.3, automated recordkeeping or conversion to micrographics pursuant to Sections 26863 and 68090.7, and courthouse financing pursuant to Section 76238. This section also



does not apply to fees collected pursuant to subdivisions (a) and (c) of Section 27361.

(e) This section applies to all payments required to be made to the State Treasury by any county or city and county pursuant to Section 77201, 77201.1, or 77205.

(f) Notwithstanding any other provision of law, no agency may take action to change the amounts allocated to any of the funds described in subdivision (a), (b), (c), or (d).

(g) Before making any apportionments under this section, the Controller shall deduct, from the annual appropriation for that purpose, the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(h) Any amounts required to be transmitted by a county or city and county to the state pursuant to this section shall be remitted to the Controller no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance which is not made by the county or city and county in accordance with this section shall be considered delinquent, and subject to the penalties specified in this section.

(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to $1\frac{1}{2}$ percent per month for the number of days the payment is delinquent. Notwithstanding Section 77009, any penalty on a delinquent payment that a court is required to reimburse to a county's general fund pursuant to this section and Section 24353 shall be paid from the Trial Court Operations Fund for that court.

(j) Penalty amounts calculated pursuant to subdivision (i) shall be paid by the county to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(k) The Trial Court Trust Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the Trial Court Trust Fund semiannually and shall be allocated among the courts in accordance with the requirements of subdivision (a). The specific allocations shall be specified by the Judicial Council, based upon recommendations from the Trial Court Budget Commission.

(l) It is the intent of the Legislature that the revenues required to be deposited into the Trial Court Trust Fund be remitted as soon after collection by the courts as possible. Not later than February 1, 2001, the Judicial Council, in consultation with the California State Association



of Counties and the California County Auditors Association, shall study and make recommendations to the Legislature on alternative procedures that would improve the collection and remittance of revenues to the Trial Court Trust Fund.

SEC. 20. Section 68087.1 is added to the Government Code, to read:

68087.1. The total amount collected pursuant to paragraph (1) of subdivision (c) of Section 68085 and the state surcharge imposed by Section 68087 may be rounded up to the nearest whole dollar. The clerk of the court shall cause the amount collected pursuant to this section to be transmitted to the Trial Court Trust Fund.

SEC. 21. Section 68203.1 of the Government Code is amended to read:

68203.1. (a) Operative January 2, 2002, the salary of the position of Chair of the Judicial Council and the position of a presiding judge of a superior court which has 15 or more judges, and the positions of the administrative presiding justices of the Courts of Appeal, shall be increased by that amount that is produced by multiplying the salary of each of these judicial offices by 4 percent and the salary for the position of a presiding judge of a superior court, that has four to 14 judges, shall be increased by the amount that is produced by multiplying the salary of that judicial office by 2 percent.

(b) Operative January 2, 2003, the salary for the position of a presiding judge of a superior court that has two or three judges, shall be increased by the amount that is produced by multiplying his or her salary by 2 percent.

(c) A judge or justice who no longer serves in the position of an administrative presiding justice or a presiding judge of a superior court shall receive only the salary in effect for judges or justices of his or her court.

SEC. 22. Section 69510 of the Government Code is repealed.

SEC. 23. Section 69510.5 of the Government Code is repealed.

SEC. 24. Section 69510.6 of the Government Code is repealed.

SEC. 25. Section 69645 is added to the Government Code, to read:

69645. (a) Notwithstanding any other provision of law, each trial court shall determine the number and location of sessions of the court. In making this determination, the court shall consider, among other factors, the impact of this provision on court employees pursuant to Section 71634, the availability and adequacy of facilities for holding the court session at the specific location, the efficiency and cost of holding the session at the specific location, any applicable security issues, and the convenience to the parties and the public served by the court.

(b) In appropriate circumstances, upon agreement of the presiding judges of the courts, and in the discretion of the court, the location of a



session may be outside the county, except that the consent of the parties shall be necessary to the holding of a criminal jury trial outside the county. The venue of a case whose session is held outside the county pursuant to this section shall be deemed to be the home county of the court in which the matter was filed. Nothing in this section shall provide a party with the right to seek a change of venue unless otherwise provided by statute. No party shall have any right to request the court to exercise its discretion under this section.

(c) The Judicial Council may adopt rules that address an appropriate mechanism for sharing of expenses and resources between the court holding the session and the court hosting the session.

SEC. 26. Section 1328 of the Penal Code is amended to read:

1328. (a) A subpoena may be served by any person, except that the defendant may not serve a subpoena in the criminal action to which he or she is a party, but a peace officer shall serve in his or her county any subpoena delivered to him or her for service, either on the part of the people or of the defendant, and shall, without delay, make a written return of the service, subscribed by him or her, stating the time and place of service. The service is made by delivering a copy of the subpoena to the witness personally.

(b) (1) If service is to be made on a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, unless the parent, guardian, conservator, or fiduciary or other specified person is the defendant, and on the minor if the minor is 12 years of age or older. The person served shall have the obligation of producing the minor at the time and place designated in the subpoena. A willful failure to produce the minor is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure. The person served shall be allowed the fees and expenses that are provided for subpoenaed witnesses.

(2) If the minor is alleged to come within the description of Section 300, 601, or 602 of the Welfare and Institutions Code, and the minor is not residing with a parent or guardian, regardless of the age of the minor, service shall also be made upon the designated agent for service of process at the county child welfare department or the probation department under whose jurisdiction the child has been placed.

(3) The court having jurisdiction of the case shall have the power to appoint a guardian ad litem to receive service of a subpoena of the child and shall have the power to produce the child ordered to court under this section.



(c) If any peace officer designated in Section 830 is required as a witness before any court or magistrate in any action or proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or her duties, a criminal subpoena issued pursuant to this chapter requiring his or her attendance may be served either by delivering a copy to the peace officer personally or by delivering two copies to his or her immediate superior or agent designated by his or her immediate superior to receive the service or, in those counties where the local agencies have consented with the marshal's office or sheriff's office, where appropriate, to participate, by sending a copy by electronic means, including electronic mail, computer modem, facsimile, or other electronic means, to his or her immediate superior or agent designated by the immediate superior to receive the service. If the service is made by electronic means, the immediate superior or agency designated by his or her immediate superior shall acknowledge receipt of the subpoena by telephone or electronic means to the sender of origin. If service is made upon the immediate superior or agent designated by the immediate superior, the immediate superior or the agent shall deliver a copy of the subpoena to the peace officer as soon as possible and in no event later than a time which will enable the peace officer to comply with the subpoena.

(d) If the immediate superior or his or her designated agent upon whom service is attempted to be made knows he or she will be unable to deliver a copy of the subpoena to the peace officer within a time which will allow the peace officer to comply with the subpoena, the immediate superior or agent may refuse to accept service of process and is excused from any duty, liability, or penalty arising in connection with the service, upon notifying the server of that fact.

(e) If the immediate superior or his or her agent is tendered service of a subpoena less than five working days prior to the date of hearing, and he or she is not reasonably certain he or she can complete the service, he or she may refuse acceptance.

(f) If the immediate superior or agent upon whom service has been made, subsequently determines that he or she will be unable to deliver a copy of the subpoena to the peace officer within a time which will allow the peace officer to comply with the subpoena, the immediate superior or agent shall notify the server or his or her office or agent not less than 48 hours prior to the hearing date indicated on the subpoena, and is thereby excused from any duty, liability, or penalty arising because of his or her failure to deliver a copy of the subpoena to the peace officer. The server, so notified, is therewith responsible for preparing the written return of service and for notifying the originator of the subpoena if required.



(g) Notwithstanding subdivision (c), in the case of peace officers employed by the California Highway Patrol, if service is made upon the immediate superior or upon an agent designated by the immediate superior of the peace officer, the immediate superior or the agent shall deliver a copy of the subpoena to the peace officer on the officer's first workday following acceptance of service of process. In this case, failure of the immediate superior or the designated agent to deliver the subpoena shall not constitute a defect in service.

SEC. 27. Section 1513.1 of the Probate Code is amended to read:

1513.1. (a) Each court or county shall assess (1) the parent, parents, or other person charged with the support and maintenance of the ward or proposed ward, and (2) the guardian, proposed guardian, or the estate of the ward or proposed ward, for court or county expenses incurred for any investigation or review conducted by the court investigator, probation officer, or domestic relations investigator. The court may order reimbursement to the court or to the county in the amount of the assessment, unless the court finds that all or any part of the assessment would impose a hardship on the ward or the ward's estate. A county may waive any or all of an assessment against the guardianship on the basis of hardship. There shall be a rebuttable presumption that the assessment would impose a hardship if the ward is receiving Medi-Cal benefits.

(b) Any amount chargeable as state-mandated local costs incurred by a county for the cost of the investigation or review shall be reduced by any assessments actually collected by the county pursuant to subdivision (a) during that fiscal year.

SEC. 28. Section 1851 of the Probate Code is amended to read:

1851. (a) When court review is required, the court investigator shall visit the conservatee. The court investigator shall inform the conservatee personally that the conservatee is under a conservatorship and shall give the name of the conservator to the conservatee. The court investigator shall determine whether the conservatee wishes to petition the court for termination of the conservatorship, whether the conservatee is still in need of the conservatorship, whether the present conservator is acting in the best interests of the conservatee, and whether the conservatee is capable of completing an affidavit of voter registration. If the court has made an order under Chapter 4 (commencing with Section 1870), the court investigator shall determine whether the present condition of the conservatee is such that the terms of the order should be modified or the order revoked.

(b) The findings of the court investigator, including the facts upon which the findings are based, shall be certified in writing to the court not less than 15 days prior to the date of review. A copy of the report shall



be mailed to the conservator and to the attorneys of record for the conservator and conservatee at the same time it is certified to the court.

(c) In the case of a limited conservatee, the court investigator shall make a recommendation regarding the continuation or termination of the limited conservatorship.

(d) The court investigator may personally visit the conservator and other persons as may be necessary to determine whether the present conservator is acting in the best interests of the conservatee.

(e) The report required by this section shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested the report or who have appeared in the proceeding, their attorneys, and the court. The court shall have discretion at any other time to release the report if it would serve the interests of the conservatee. The clerk of the court shall make provision for limiting disclosure of the report exclusively to persons entitled thereto under this section.

SEC. 29. Section 1851.5 of the Probate Code is amended to read:

1851.5. Each court shall assess each conservatee in the county for any investigation or review conducted by a court investigator with respect to that person. The court may order reimbursement to the court for the amount of the assessment, unless the court finds that all or any part of the assessment would impose a hardship on conservatee or the conservatee's estate. There shall be a rebuttable presumption that the assessment would impose a hardship if the conservatee is receiving Medi-Cal benefits.

SEC. 30. Section 213.5 of the Welfare and Institutions Code is amended to read:

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, striking, sexually assaulting, stalking, or battering the child or any other child in the household; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; and (3) enjoining any person from behavior, including contacting, threatening, or disturbing the peace of the child, that the court determines is necessary to effectuate orders under paragraph (1) or (2). A court issuing an ex parte order pursuant to this subdivision may simultaneously issue an ex parte order enjoining any person from contacting, threatening, molesting, attacking, striking, sexually assaulting, stalking, battering, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current



caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child.

(c) In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service on the person to be restrained of the order to show cause. The court may, upon its own motion or the filing of an affidavit by the person seeking the restraining order, find that the person to be restrained could not be served within the time required by law and to reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained. The reissued order shall state on its face the date of expiration of the order. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (c), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.



(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(f) Any order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) The juvenile court shall order any designated person or attorney to mail a copy of any order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the person seeking the restraining order or his or her attorney having jurisdiction over the residence of the person who has care, custody, and control of the child and other locations where the court determines that acts of domestic violence or abuse against the child or children are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to subdivision (a), (b), (c), or (d) to any law enforcement officer responding to the scene of reported domestic violence or abuse.

(h) Any willful and knowing violation of any order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(j) Information on any juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.



(k) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer so notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

(l) Upon making any order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of Section 6323 of the Family Code.

SEC. 31. Section 20 of this act shall only become operative and take effect if Assembly Bill 3000 or Senate Bill 1843, or both, of the 2001-02 Regular Session are enacted and become effective and add Section 68087 to the Government Code.

SEC. 32. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

